

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

BARRY M. VAUGHN,

Petitioner,

v.

CIVIL ACTION NO. 5:13-cv-03292
(Criminal No. 5:08-cr-00266-01)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

On February 22, 2013, the Petitioner filed his *Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (Document 214). The Petitioner subsequently filed an *Addendum to 28 U.S.C. § 2255 Motion* (Document 228) on September 14, 2015. By *Standing Order* (Document 217) entered on February 22, 2013, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On December 16, 2015, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 233) wherein it is recommended that this Court deny the Petitioner's § 2255 motion and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were originally due by January 4, 2016, but the Petitioner was granted an extension to January 20, 2016.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Petitioner's *Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (Documents 214 & 228) be **DENIED** and that this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to counsel of record, and any unrepresented party.

ENTER: January 28, 2016


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA